

**ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE**

March 18, 2021

3:33 p.m.

MEMBERS PRESENT

Senator Mike Shower, Chair
Senator Lora Reinbold, Vice Chair (via Teams)
Senator Mia Costello (via Teams)
Senator Roger Holland (via Teams)
Senator Scott Kawasaki (via Teams)

MEMBERS ABSENT

All members present

OTHER MEMBERS PRESENT

Senator Peter Micciche

COMMITTEE CALENDAR

SENATE BILL NO. 40

"An Act relating to veterans' benefits services and veterans' benefits appeal services."

- MOVED SB 40 OUT OF COMMITTEE

SENATE BILL NO. 31

"An Act relating to binding votes by or for a legislator under the Legislative Ethics Act."

- HEARD & HELD

SENATE BILL NO. 39

"An Act relating to elections; relating to voter registration; relating to ballots and a system of tracking and accounting for ballots; establishing an election offense hotline; designating as a class A misdemeanor the collection of ballots from other voters; designating as a class C felony the intentional opening or tampering with a sealed ballot, certificate, or package of ballots without authorization from the director of the division of elections; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 40

SHORT TITLE: VETERANS' BENEFITS SERVICES; DISCLOSURE

SPONSOR(s): SENATOR(s) REVAK

01/25/21	(S)	PREFILE RELEASED 1/15/21
01/25/21	(S)	READ THE FIRST TIME - REFERRALS
01/25/21	(S)	STA, L&C
03/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
03/04/21	(S)	Heard & Held
03/04/21	(S)	MINUTE(STA)
03/11/21	(S)	STA AT 3:30 PM BUTROVICH 205
03/11/21	(S)	Heard & Held
03/11/21	(S)	MINUTE(STA)

BILL: SB 31

SHORT TITLE: PROHIBITING BINDING CAUCUSES

SPONSOR(s): SENATOR(s) SHOWER

01/25/21	(S)	PREFILE RELEASED 1/8/21
01/25/21	(S)	READ THE FIRST TIME - REFERRALS
01/25/21	(S)	STA, JUD
03/18/21	(S)	STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

SCOTT OGAN, Staff
Senator Mike Shower
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 31 and provided information related to the bill.

TERRENCE SHANIGAN, Staff
Senator Mike Shower
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a law enforcement perspective of SB 31.

ACTION NARRATIVE

[3:33:59 PM](#)

CHAIR MIKE SHOWER called the Senate State Affairs Standing Committee meeting to order at 3:33 p.m. He stated that he was the only member in the committee room and Senators Reinbold, Costello, Holland, and Kawasaki were in the building but attending remotely. He advised that this was being done from a COVID-19 safety perspective and to show that the committee could operate this way. Legislative Legal Services advised that it was permissible for the committee to pass amendments and report bills from the committee in these limited situations if three members of the committee were in the building and online with the committee during the meeting and available to sign the committee report within a reasonable period.

A roll call showed the presence and location of the following committee members: Chair Shower in the committee room, Senator Reinbold Capitol 427, Senator Costello Capitol 119, and Senator Holland Capitol 113. Senator Kawasaki reported that he was outside the Capitol and headed to his office.

SB 40-VETERANS' BENEFITS SERVICES; DISCLOSURE

[3:40:47 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 40 "An Act relating to veterans' benefits services and veterans' benefits appeal services."

He stated that the committee heard the bill previously when he opened and closed public testimony. The intention today was to move the bill from committee.

[3:41:21 PM](#)

At ease

[3:42:14 PM](#)

CHAIR SHOWER reconvened the meeting.

[3:42:28 PM](#)

SENATOR REINBOLD moved to report SB 40, work order 32-LS0231\A, from committee [with individual recommendations and attached fiscal note(s)].

CHAIR SHOWER found no objection and SB 40 was reported from the Senate State Affairs Standing Committee.

[3:43:02 PM](#)

At ease to circulate the committee report for signatures.

[3:43:26 PM](#)

CHAIR SHOWER reconvened the meeting to outline the options for getting the signatures for the committee report. Responding to a question, he advised that the next agenda item would be SB 31.

[3:45:07 PM](#)

At ease

SB 31-PROHIBITING BINDING CAUCUSES

[3:48:13 PM](#)

CHAIR SHOWER reconvened the meeting and announced the consideration of SENATE BILL NO. 31 "An Act relating to binding votes by or for a legislator under the Legislative Ethics Act."

Speaking as sponsor, he introduced SB 31 reading the sponsor statement into the record [original punctuation included]:.

SB 31 addresses the ethics statute and bans the practice commonly known as a "binding caucus." The tradition of the binding caucus in the Alaska State Legislature has been used to suppress the voice of the people, the use of coercion and enticements to manipulate the actions and votes of their elected Representative or Senator. The caucuses are formed with the enticement of perks of being a majority member, including but not limited to: influence within the organization, chairmanships of important committees, better office space, more staff to help you be effective. All of these are not nefarious on their face, but as applied in the binding caucus, they are exchanged for the participating Representative(s) or Senator(s) vote on key issues such as the budget.

AS 24.60.039(g)1 "Caucus" means a group of legislators that share a political philosophy or have a common goal or who organize as a group. Ultimately it is a caucus of ideas. Because it does not state the use of coercion or enticements are not prohibited should not be misconstrued that it is permissible, especially since these two activities are prohibited for private citizens under Alaska Criminal statutes.

Where the nefarious intent creeps in is the quid-pro-quo required to join the club. In exchange for the "enticement" of the associated perks, under a binding caucus, a legislator is expected to blindly vote for a

budget before it exists and has never seen that a small group of "leadership" members supports. It has also been used as an arbitrary tool for supporting any floor vote the presiding officer decides is a "procedural vote."

Control of legislators through a binding caucus consolidates power into a tiny group of legislators, those in leadership, the presiding officer, the majority leader, the rules chair, the finance co-chairs. When a caucus member capitulates to the pressure, their constituents are compromised. When a caucus member is "disciplined," it also disenfranchises that elected official that the voters put into the majority party.

This practice is only accepted in the State of Alaska. The sponsor contacted a Senator from 49 other states, and all but one stated they do not use or permit the practice of a binding caucus in their state.

Public pressure has forced the Senate to not organize under the binding caucus. It's time to codify this unethical practice of forcing legislators to vote against their conscience, and ultimately their constituents. If the 49 other states in the union can do business without a binding caucus and coercion to pass legislation, Alaska can too.

SENATOR REINBOLD thanked the sponsor for introducing the legislation.

[3:52:38 PM](#)

SCOTT OGAN, Staff, Senator Mike Shower, Alaska State Legislature, Juneau, Alaska read the following sectional analysis for SB 31:

Section 1; Adds the definition of a "caucus" and "legislative body" to the guidelines of the open meetings Act under the legislatures ethics code.

Section 2; Creates the ethics violation of binding another legislator to commit their vote on any matter that may come before the legislature. Clarifies that voting for selecting an officer or leader of a legislative body is an allowable practice. It also

clarifies that running an informal poll, aka as a "chit sheet," is an allowable practice.

SENATOR KAWASAKI asked if "binding" was a term of art.

MR. OGAN answered yes and it might need a definition in statute.

SENATOR KAWASAKI said he had been in the minority all but one term when there was a bipartisan coalition. He described the circumstance that the minority caucus never talked about how to vote on any topic.

3:55:40 PM

CHAIR SHOWER described a discussion in a previous legislature in which Senators were told that if they wanted to join the majority caucus they were expected to vote for the budget and to follow the procedural rulings. Failing to do so would result in the loss of all the perks associated with being in the majority. He related his experience of watching colleagues sit almost frozen into inaction when told the vote was binding even though it may go against their constituents. He related his personal experience and maintained that the last leadership team used enticement and coercion.

SENATOR KAWASAKI asked what it means to bind another person and if people who act as spokespersons for their bosses are bound by the same ethics rules as legislators.

CHAIR SHOWER answered that this bill addresses legislators only. He asked Mr. Ogan to confirm that it had no bearing on staff.

4:00:04 PM

MR. OGAN advised that SB 31 expressly mentions legislators. He related his experience as a legislator in a semi binding caucus. The focus was to pass a budget and the understanding was that nobody would get everything they wanted. He also described the late-night floor sessions where the minority held the body hostage trying to add things to the budget.

4:03:43 PM

TERRENCE SHANIGAN, Staff, Senator Mike Shower, Alaska State Legislature, Juneau, Alaska, provided a law enforcement perspective on SB 31. He said there are multiple places in the Open Meetings Act and the statutes governing ethics, bribery, and coercion that talk about it being improper to influence the official actions and duties of public officials. He said there are technical ways to get around the requirements but the

sponsor's office was always able to find ways that they continue to apply. He described the transition from enticement to bribe to coercion when it comes to influencing the vote.

4:07:05 PM

CHAIR SHOWER added that the irony over the last two years was that the members who were coerced were the ones trying to reduce the budget. He said what SB 31 ultimately is about is ensuring that legislators are free to vote for the benefit of those they represent and the statutes back that up.

SENATOR REINBOLD expressed support for the bill and related a personal experience of being punished for not going along with the binding caucus.

SENATOR HOLLAND said he favored the bill, but would suggest rephrasing the language on page 1, line 8 to say, "A legislator may not request or require a commitment," or "A legislator cannot promise their vote in a future situation."

CHAIR SHOWER said he may consider that.

4:16:29 PM

SENATOR KAWASAKI reiterated that he had never been part of a binding caucus and invited the members to join the minority caucus.

CHAIR SHOWER asked Mr. Ogan to read the coercion statute into the record.

4:17:23 PM

MR. OGAN read AS 11.41.530(a)(4):

(a) A person commits the crime of coercion if the person compels another to engage in conduct from which there is a legal right to abstain or abstain from conduct in which there is a legal right to engage, by means of instilling in the person who is compelled a fear that, if the demand is not complied with, the person who makes the demand or another may

(4) take or withhold action as a public servant or cause a public servant to take or withhold action;

MR. OGAN clarified that SB 31 seeks to regulate the behavior internally as an ethics issue, not a criminal issue.

SENATOR HOLLAND offered his understanding that the majority in the other body formed as a binding caucus.

CHAIR SHOWER said he believed that was correct.

CHAIR SHOWER restated that his experience with a binding caucus was overwhelmingly negative.

SENATOR REINBOLD added that the personal story she related happened on March 16, 2015 and she found it shocking.

[4:22:02 PM](#)

CHAIR SHOWER held SB 31 in committee.

[4:22:51 PM](#)

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 4:22 p.m.